

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 24.29.1529 related to)
allowable charges for prescription drugs)
under a workers' compensation claim)

TO: All Concerned Persons

1. On August 23, 2007, the department published MAR Notice No. 24-29-223 regarding the public hearing on the proposed amendment of the above-stated rule at page 1152 of the 2007 Montana Administrative Register, issue no. 16.

2. On September 14, 2007, a public hearing was held in Helena concerning the proposed amendments. No oral or written comments were received. One comment was received prior to the closing date of September 21, 2007.

3. The department has thoroughly considered the comment received. The following is a summary of the comment received, along with the department's response to that comment:

Comment 1: The Montana Self Insurers Association requested that the department clarify the reimbursement amounts for prescription drugs in (1)(b) and (1)(c). Specifically, the association pointed out that the language is unclear as to whether the dispensing fee applies to both the AWP amount and the price charged amount. The association also requested that the rule be amended to remove the word "product" and replace it with "prescription."

Response 1: Although the comment does not address the proposed amendment, the department agrees the language discussed in the comment is unclear. The department's intent was to have the dispensing fee apply only to the AWP amount and not the price charged amount. For example, the language in (1)(b) would more accurately read: "Reimbursement rates to retail pharmacies for brand-name drugs are limited to the lesser of the price charged for the prescription at the time of dispensing or the average wholesale price (AWP), minus 10 percent, plus a dispensing fee, not to exceed \$3.00 per prescription." However, changing this language is outside the scope of this notice. Therefore, in this same issue of the Montana Administrative Register, the department is proposing to amend the rule to clarify the language of (1)(b), in MAR Notice No. 24-29-226.

4. The department has amended ARM 24.29.1529 as proposed.

/s/ MARK CADWALLADER

Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY

Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State October 15, 2007